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In re application of Shubh D. Sharma
Serial No. : 09/483,837
Filed : January 17, 2000
Attorney Docket No.: 70025-9902-11

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: DECISION ON PETITION
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This is in response to applicant's petition, filed October 2, 2002 under 37 CFR 1.181, to withdraw the holding of abandonment.

BACKGROUND

Review of the file history shows that the application was filed on January 17, 2000 as a divisional application of U.S. application serial number 08/660,697, filed June 5, 1996. On May 9, 2000 applicant filed a sequence listing in paper and in computer readable form. On December 12, 2000 the examiner mailed an Office action (restriction requirement). Applicant's election was received January 17, 2001 and the examiner mailed a first Office action on the merits February 14, 2001. On July 20, 2001 applicant filed a response including an amendment, declaration and petition for 2 month extension of time. On October 2, 2001, the examiner mailed a Notice to Comply With Sequence Rules. The notice stated that the sequence listing filed May 9, 2000 was not in compliance with the sequence rules. On January 4, 2002 applicant filed a new sequence listing in computer readable form. On March 4, 2002 the examiner mailed a Notice to Comply With Sequence Rules. The notice stated that the sequence listing filed January 4, 2002 was not in compliance with the sequence rules, and further stated that applicant's submission was not a *bona fide* attempt to comply with the sequence rules, meaning that the time period to reply could not be extended beyond the 6 month period set in the Notice of October 2, 2001. The examiner did not provide any reasoning to support the allegation that this was not a *bona fide* response. On March 25, 2002 applicant filed another sequence listing in paper and computer readable forms. The computer readable form was found to be good technically and was entered into the USPTO database. On August 2, 2002 the examiner mailed a Notice of Abandonment, stating that the application was abandoned because some sequences in the specification were not identified by SEQ ID No. On October 2, 2002 applicant filed, along with the petition, a new sequence listing in paper and computer readable forms. The computer readable form has been found good technically and entered into the USPTO database.

DISCUSSION

The examiner's conclusion that the application was abandoned was in error for two reasons. First, there was no basis for ruling that applicant's reply of January 4, 2002 was not a *bona fide* attempt to comply with the sequence rules. Second, applicant received an Office action on the merits. Applicant's response to this Office action was never considered. In view of the fact that applicant filed a timely response to every letter mailed by the Office, it is not reasonable to conclude that he abandoned the application.

DECISION

Applicant's petition is **GRANTED**.

The application will be restored to pending status and forwarded to the examiner for consideration of the response filed July 20, 2001.

Since no fee is required for this petition, the \$640 payment will be refunded to deposit account number 13-4213.

Any request for reconsideration or review of this decision must be made by a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA, 22313-1450, or by telephone at (571) 272-0974 or by facsimile transmission at (571) 273-0974.

John Doll 
Director, Technology Center 1600